



**Virginia  
Regulatory  
Town Hall**

## Notice of Intended Regulatory Action Agency Background Document

<b>Agency Name:</b>	Board of Counseling, Department of Health Professions
<b>VAC Chapter Number:</b>	18 VAC 115-30-10 et seq.
<b>Regulation Title:</b>	Regulations Governing the Certification of Substance Abuse Counselors
<b>Action Title:</b>	Certification requirements for counselors and assistants
<b>Date:</b>	

This information is required prior to the submission to the Registrar of Regulations of a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B). Please refer to Executive Order Twenty-Five (98) and Executive Order Fifty-Eight (99) for more information.

### Purpose

*Please describe the subject matter and intent of the planned regulation. This description should include a brief explanation of the need for and the goals of the new or amended regulation.*

The purpose of the intended action by the Board of Counseling is compliance with House Bill 2095 (Chapter 460 of the 2001 Acts of the Assembly) to promulgate regulations for certification of substance abuse counselors with a bachelor's degree level of education and substance abuse counseling assistants with a high school or GED degree level of education. §§ 54.1-3507.1 and 54.1-3507.2 require the Board to establish in regulation a specified number of hours of substance abuse education and supervised experience for both levels of certification. Regulations must also provide for a certification examination.

### Basis

*Please identify the state and/or federal source of legal authority to promulgate the contemplated regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. The correlation between the proposed regulatory action and the legal authority identified above should be explained. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided.*

**18 VAC 115-30-10 et seq. Regulations Governing the Certification of Substance Abuse Counselors** were promulgated under the general authority of Title 54.1 of the Code of Virginia.

**Chapter 24** establishes the general powers and duties of health regulatory boards including the responsibility to promulgate regulations.

*§ 54.1-2400. General powers and duties of health regulatory boards.--The general powers and duties of health regulatory boards shall be:*

- 1. To establish the qualifications for registration, certification or licensure in accordance with the applicable law which are necessary to ensure competence and integrity to engage in the regulated professions.*
- 2. To examine or cause to be examined applicants for certification or licensure. Unless otherwise required by law, examinations shall be administered in writing or shall be a demonstration of manual skills.*
- 3. To register, certify or license qualified applicants as practitioners of the particular profession or professions regulated by such board.*
- 4. To establish schedules for renewals of registration, certification and licensure.*
- 5. To levy and collect fees for application processing, examination, registration, certification or licensure and renewal that are sufficient to cover all expenses for the administration and operation of the Department of Health Professions, the Board of Health Professions and the health regulatory boards.*
- 6. To promulgate regulations in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) which are reasonable and necessary to administer effectively the regulatory system. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 and Chapter 25 of this title.*
- 7. To revoke, suspend, restrict, or refuse to issue or renew a registration, certificate or license which such board has authority to issue for causes enumerated in applicable law and regulations.*
- 8. To appoint designees from their membership or immediate staff to coordinate with the Intervention Program Committee and to implement, as is necessary, the provisions of Chapter 25.1 (§ 54.1-2515 et seq.) of this title. Each health regulatory board shall appoint one such designee.*
- 9. To take appropriate disciplinary action for violations of applicable law and regulations.*
- 10. To appoint a special conference committee, composed of not less than two members of a health regulatory board, to act in accordance with § 9-6.14:11 upon receipt of*

*information that a practitioner of the appropriate board may be subject to disciplinary action. The special conference committee may (i) exonerate the practitioner; (ii) reinstate the practitioner; (iii) place the practitioner on probation with such terms as it may deem appropriate; (iv) reprimand the practitioner; (v) modify a previous order; and (vi) impose a monetary penalty pursuant to § 54.1-2401. The order of the special conference committee shall become final thirty days after service of the order unless a written request to the board for a hearing is received within such time. If service of the decision to a party is accomplished by mail, three days shall be added to the thirty-day period. Upon receiving a timely written request for a hearing, the board or a panel of the board shall then proceed with a hearing as provided in § 9-6.14:12, and the action of the committee shall be vacated. This subdivision shall not be construed to affect the authority or procedures of the Boards of Medicine and Nursing pursuant to §§ 54.1-2919 and 54.1-3010.*

- 11. To convene, at their discretion, a panel consisting of at least five board members or, if a quorum of the board is less than five members, consisting of a quorum of the members to conduct formal proceedings pursuant to § 9-6.14:12, decide the case, and issue a final agency case decision. Any decision rendered by majority vote of such panel shall have the same effect as if made by the full board and shall be subject to court review in accordance with the Administrative Process Act. No member who participates in an informal proceeding conducted in accordance with § 9-6.14:11 shall serve on a panel conducting formal proceedings pursuant to § 9-6.14:12 to consider the same matter.*
- 12. To issue inactive licenses and certificates and promulgate regulations to carry out such purpose. Such regulations shall include, but not be limited to, the qualifications, renewal fees, and conditions for reactivation of such licenses or certificates.*

**The specific statutory authority for the Board to certify substance abuse counselors and substance abuse counseling assistants is found in § 54.1-3505 of the Code of Virginia:**

§ [54.1-3505](#). *Specific powers and duties of the Board.*

*In addition to the powers granted in § [54.1-2400](#), the Board shall have the following specific powers and duties:*

*7. To promulgate, subject to the requirements of Article 1.1 (§ [54.1-3507](#) et seq.) of this chapter, regulations for the qualifications, education, and experience for licensure of licensed substance abuse treatment practitioners and certification of certified substance abuse counselors and certified substance abuse counseling assistants. The requirements for membership in NAADAC: the Association for Addiction Professionals and its national examination may be considered by the Board in the promulgation of these regulations. The Board also may provide for the consideration and use of the accreditation and examination services offered by the Substance Abuse Certification Alliance of Virginia. The educational credit hour, clinical experience hour, and clinical supervision hour requirements for licensed substance abuse treatment practitioners shall not be less than the educational credit hour, clinical experience hour, and clinical supervision hour requirements for licensed professional counselors. Such regulations also shall establish standards and protocols for the clinical supervision of certified substance abuse*

*counselors and the supervision or direction of certified substance abuse counseling assistants, and reasonable access to the persons providing that supervision or direction in settings other than a licensed facility.*

The full text of House Bill 2095 (Chapter 460 of the 2001 Acts of the Assembly) may be accessed at <http://leg1.state.va.us/cgi-bin/legp504.exe?011+ful+CHAP0460>.

## Substance

*Please detail any changes that would be implemented: this discussion should include a summary of the proposed regulatory action where a new regulation is being promulgated; where existing provisions of a regulation are being amended, the statement should explain how the existing regulation will be changed. The statement should set forth the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of citizens. In addition, a statement delineating any potential issues that may need to be addressed as the regulation is developed shall be supplied.*

Chapter 460 of the 2001 Acts specifically sets forth the scope of practice of a certified substance abuse counselor and a certified substance abuse counseling assistant and provides the requirement for supervision of their practice. The Board is required, however, to promulgate regulations to establish adequate education, experience and examination requirements to ensure competency of practitioners and protect the public.

For each of the two levels of certification, the law is specific about the degree requirement: 1) § 54.1-3507.1 states that a certified substance abuse counselor (CSAC) must have a bachelor's degree from a college or university accredited by an accrediting agency recognized by the Board; and 2) § 54.1-3507.2 specifies that a certified substance abuse counseling assistant must have received a high school diploma or its equivalent. While the basic educational requirement is set in the Code, the Board must specify for each profession the number of hours of didactic substance abuse education in a program or programs recognized or approved by the Board.

The Board has been studying the issue of the appropriate education for a CSAC since 1993 when it developed a task force with representatives from Virginia's substance abuse professional associations to review the requirements. One of the recommendations of the task force was to increase the level of education for certification from a high school diploma to a bachelor's degree. That recommendation did not move forward at that time, but with the passage of this legislation, that has been accomplished; and a new category of certification and scope of practice has been created for those who wish to work in the field but have not obtained a bachelor's degree.

In the fall of 2000, the Board began to reexamine the issue of the education level for certified counselors based on its recent review of other states' requirements, and Knowledge, Skills and Attitudes (KSA's) of the profession published by the U.S. Department of Health and Human

Services.<sup>1</sup> This document, commonly referred to as TAP 21, has been endorsed by substance abuse professional associations as the national standard for the profession.

To address issues of education, training and practice, the Board established an ad-hoc committee with leaders of Virginia's substance abuse. The Office of Substance Abuse Services of the Department of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS) sent a representative to participate in the meeting. A point of agreement among the ad-hoc committee members was the growth in complexity of the knowledge base for the profession over the past decade, resulting in advances in treatment methods, including new psychotropic medications. These changes require that counselors be able to understand more complex medical information.

The proficiencies identified in TAP 21 for the competent practice of substance abuse counseling include: data collection, interpretation and synthesis into a treatment plan; effective oral and written communication skills; ability to understand literature on counseling theory, substance abuse treatment research, medical terminology, pharmacology, disease process and infectious diseases, the laws and regulations governing the profession; and the ability to problem solve. The Board has had concerns about the disparity in substance abuse-specific education training among applicants. This training may be obtained as part of a degree program or independently through seminars and workshops. Under the current regulations, applicants must document 220 hours of didactic training in two general counseling areas and four substance abuse core areas, with a minimum of ten hours in each area. Therefore, some applicants may have only 40 clock hours of substance abuse-specific education with the remaining 180 in general counseling, whereas others may have 200 hours specific to substance abuse, with only 20 hours in general counseling. In developing education and training regulations for CSAC's, the Board may consider recommendations of the task force to more clearly specify the hours of substance abuse and counseling an applicant must have.

In its 2000 review, the Board also reasoned that the 2,000-hour experience requirement was sufficient, but it should set forth content areas that are designed to develop the knowledge, skills and aptitudes for contemporary practice. In addition, there were recommendations for the supervised experience to include at least 1,000 hours of face-to-face contact with substance abuse clients and that hours spent in college internships be accepted towards the experience requirement.

For the certified substance abuse counseling assistants (CSACA), the Board will examine their scope of practice as set forth in the statute and determine whether the current education, training and experience required of a CSAC is necessary for that level. Hours of didactic training in substance abuse are essential for the CSACA, but they are restricted by law from providing counseling, so courses directed at providing those services would not be as essential. An experiential requirement directed at the scope of practice set forth in § 54.1-3507.2 will be necessary, but the Board has not determined the appropriate number of hours.

---

<sup>1</sup> Addiction Counseling Competencies: The Knowledge, Skills and Attitudes of Professional Practice. 1998. U.S. Department of Health and Human Services Technical Assistance Publication Number 21.

## Alternatives

*Please describe, to the extent known, the specific alternatives to the proposal that have been considered or will be considered to meet the essential purpose of the action.*

### **Didactic Training**

In 2000 the Board considered several alternatives for didactic training in substance abuse. Its current requirement of 220 hours for substance abuse counselors is below the training standard for the national Certified Addictions Counselor credential (300 hours required by the Virginia affiliate, the Substance Abuse Counselor Alliance of Virginia). Therefore, it is likely that the Board will want to raise the hours to the national standard for certified counselors and consider some lesser number for the certified assistant.

For the general counseling training, the Board considered requiring a three semester-hour course in each area of human behavior and ethics, but rejected this alternative due to the prevalence of non-academic training for substance abuse counselors in these areas. To establish a requirement equivalent to a three-credit course, the Board would likely propose 45 clock hours of training from a variety of sources (workshops, seminars, courses, in-service training) in the two basic areas of understanding the dynamics of human behavior and in ethics and professional identity. For the substance abuse-specific didactic training hours, the Board had considered in 2000 a range of hours up to 30 hours per area, but selected 20 as a reasonable number of training hours in each area, which would keep the total hours close to the standard recognized by most other states. In addition, the Board suggested that the four substance abuse core areas in the current regulation be replaced with five new areas to ensure coverage of the federal (TAP 21) substance abuse competencies. The areas of competency and knowledge will be similar to those required for the certified assistant with possibly fewer hours required and less emphasis on assessment, appraisal and diagnosis.

### **Experience Requirement**

The Board will consider establishing competency areas within the -hour supervised experience requirement, and rescinding the 180-hour practicum requirement. The Board has developed competency areas for the residency for substance abuse treatment practitioner licensure based on the new KSA's, and would like to propose the same areas of competency for certification of CSAC's. Similar competencies will be necessary for the certified assistant, but since their scope of practice is more narrow, there may be less emphasis on clinical evaluation and treatment planning. Also, the Board would like to specify that half of the required hours be in direct contact with substance abuse clients, in conformance with the rules in its other chapters. The Board intends to include a provision in the regulations to allow for acceptance of college internships toward the supervised experience requirement for those seeking to be certified as substance abuse counselors.

### **Examination requirement**

In the development of proposed regulations, the Board will consider various alternatives for the appropriate examination of CSAC's and CSACA's. The vendor for the current CSAC has found that costs are exceeding revenue, so the Board will consider options such as seeking a new vendor, relying on the examination of the NAADAC: the Association for Addiction

Professionals, or utilizing the accreditation and examination services of the Substance Abuse Certification Alliance of Virginia. The latter two options are specifically mentioned in the amended powers and duties of the Board in § 54.1-3505 of the Code of Virginia.

If a new examination is required for the assistant-level certification, the primary expense would be associated with the development and administration of an examination; exam development is expected to cost at least \$50,000 for a job analysis, psychometrician, etc. Then it will be difficult to find a contractor to administer an examination for so few applicants (estimated to be less than 10 per year). Only about 6% of those who are currently certified hold just a high school or GED degree, so only a small number of persons are likely to seek certification at the “assistant” level in the future. With high costs relative to such small numbers of applicants, it is likely that fees for the examination could be prohibitively expensive – approximately \$1,100 to \$1,400 per applicant for the vendor to recover costs.

Therefore, the Board will consider a certification examination offered by the national credentialing body, NAADAC, at a potential cost that would be considerably less than the cost of examination development. (Testimony during consideration of HB2095 indicated that the NAADAC examination could be administered in Virginia for as little as \$65 per candidate.) The Board will consider the validity of the NAADAC examination and any other testing or credentialing options as may be available.

### Family Impact Statement

*Please provide a preliminary analysis of the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

Drug and alcohol addiction are diseases that invariably will negatively impact everyone within the family unit. Spousal and child abuse and neglect, criminal activity and financial ruin are problems frequently associated with substance abuse. The effects of physical and emotional abuse on children have been reported extensively, and it is generally accepted that abuse increases the likelihood that a child will one day become an abusive parent, building on a chain of abuse passed down from one generation to the next.

Individuals who receive the education and training in substance abuse that is required for certification are more likely to be successful in counseling the abuser or assisting him in his recovery. To the extent the Board provides regulations that assure minimal competency of practitioners working with persons who have substance abuse problems, the proposed action may strengthen the authority and rights of parents, encourage economic self-sufficiency, strengthen the marital commitment or increase disposable family income.